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COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Twenty-fifth session

SUMMARY RECORD OF THE 11th MEETING

Held at the Palais Wilson, Geneva,
on Monday, 30 April 2001, at 10 a.m.

Chairperson: Mrs. BONOAN-DANDAN

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The meeting was called to order at 10 a.m.

CONSIDERATION OF REPORTS:

(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT (agenda item 6) (continued)

Initial report of China: Hong Kong Special Administrative Region (E/1990/5/Add.43; E/C.12/Q/HKSAR/1; written replies to the list of issues prepared by the Government of China: Hong Kong Special Administrative Region (document without a reference number); HRI/CORE/1/Add.21/Rev.1) (continued)

1. At the invitation of the Chairperson, the members of the delegation of China, Hong Kong Special Administrative Region resumed their places at the Committee table.

2. The CHAIRPERSON invited the delegation to respond to questions outstanding from the 10th meeting of the Committee relating to items 22 to 26 of the list of issues.

3. Mr. ALLCOCK (China: Hong Kong Special Administrative Region), replying to questions by Mr. Riedel and Mr. Hunt, said that the Hong Kong authorities shared the Committee's concern about split families and welcomed its suggestions. The main split family scenarios in Hong Kong were: a family established in the mainland and one parent, typically the father, leaving on account of better economic prospects in Hong Kong; or a Hong Kong resident visiting the mainland regularly and starting a family there while continuing to reside and work in Hong Kong. The authorities were trying to deal with the problem sensitively and fairly, but Hong Kong was a small and densely populated region and could not possibly cope with unrestricted immigration from the mainland, even for the purposes of family reunion. The authorities had to strike a balance between the right to family life of split families and the economic, social and cultural rights of existing Hong Kong residents by facilitating family reunion at the highest rate with which the infrastructure and resources could cope and ensuring that split families were reunited through a fair, orderly and transparent mechanism.

4. As far as the entry of mainlanders to Hong Kong was concerned, family reunion was the most important aspect of immigration policy, implemented through a number of schemes. Under the system of the one-way permit, issued by the mainland authorities under the Basic Law, some 4,500 mainland residents were currently admitted to Hong Kong for settlement each month, representing an intake of 0.8 per cent of the population, higher than equivalent figures for many Western countries with far more space than Hong Kong. Since 1997 over 200,000 one-way permit holders had entered Hong Kong, including over 90,000 children and over 80,000 previously separated spouses. Members of split families awaiting settlement could visit Hong Kong under two schemes: the two-way permit system under which residents of Guangdong Province could visit Hong Kong twice annually for up to three months per visit; and the group tour scheme for which the current quota was 1,500 visits per day. Problems arose with the administration of those schemes when persons on visits decided to stay. Removal orders were often challenged by recourse to judicial review, and it was in that context that the question

of the right to family life and legitimate expectations arose. The authorities took the view in general that people who came on visits should not take advantage of the system to jump the queue of those waiting to enter on one-way permits.

5. He confirmed, in reply to a question by Mr. Hunt, that there was an appeal process concerning the right of abode. Under the immigration ordinance, any person aggrieved by a decision of the Director of Immigration or served with a removal order might appeal to the Immigration Tribunal and the order could not be executed pending the hearing of the appeal.

6. He hoped that the schemes outlined had demonstrated both the justiciability of the rights concerned in Hong Kong and the strength of the rule of law. Meanwhile, steps had been taken towards achieving a more transparent and hence fair application process. For example, the mainland authorities had introduced a system of points awarded to applicants in accordance with published criteria, and since 2000 a list of successful applicants for one-way permits had been published daily in a Hong Kong newspaper, including information on the place of application in the mainland. Newspaper articles appeared at intervals explaining the points system and providing information about a complaints hotline.

7. Turning to a question put by Mr. Riedel, he explained that the Court of Final Appeal, in its original decision of January 1999, had decided that children had the right of abode in Hong Kong if one of their parents was a permanent resident, even if that status had been acquired after the birth of the child. Subsequently, the Standing Committee of the National People's Congress had decided that the right of abode existed only if one parent had been a permanent resident at the time of the child's birth. The question was how many people should continue to benefit from the original decision of the Court. The Hong Kong authorities recognized three categories, totalling 3,700 persons, based on the interpretation by the Standing Committee that the parties to the original proceedings before the Court of Final Appeal should not be affected, but that all others should. The crucial issue then was who had been the parties to those proceedings. The view of the authorities had been challenged in court by 5,000 applicants. The case had been heard by the Court of Final Appeal, but judgement was still awaited. If the Court ruled against the authorities, the number of persons qualifying for right of abode would have to be recalculated, but he could not say, as Mr. Hunt had requested, what the result would be. The authorities' position was certainly not intended to be limiting, as Mr. Riedel had suggested, but an honest application of the decision of the Standing Committee.

8. In reply to Mr. Riedel's suggestion that under Hong Kong's policy mainland resident spouses were generally not permitted to come to Hong Kong for at least eight years after marriage, he said no such policy existed. Eight thousand separated spouses had been granted one-way permits since reunification.

9. Mr. WONG (China: Hong Kong Special Administrative Region), replying to questions by Mr. Atangana and Mr. Grissa, said that the number of reported cases of domestic violence had ranged from 1,200 to 2,000 per annum over the previous three years. Reported cases were followed up by the Social Welfare Department and the police, who would investigate and prosecute where appropriate. The causes of domestic violence were no different from those in other jurisdictions and included family disputes, personality problems of the abusers and

interpersonal problems. In addition to conducting public education and information programmes and providing preventive counselling and support services to victims, the police and the Social Welfare Department had strengthened training in the handling of cases of domestic violence. Revised procedures for the police also focused on victim care and arrangements for referral to social services. Non-governmental organizations had been invited to conduct training courses for front-line officers. Under the Domestic Violence Ordinance, the molested party might apply for a restraining order from the court. Depending on the nature and seriousness of the violence involved, the criminal system was oriented to protecting the victims. Charges ranging from common assault to rape might be brought. He confirmed that marital rape was an offence under the existing law. Concerns had been raised about the clarity of the law, and the authorities, in consultation with appropriate NGOs and the legal profession, were currently considering whether the legislation should be amended, and if so how. Meanwhile, police officers, social welfare departments, NGOs and women's groups had been reminded that a man who forced his wife to have sexual intercourse with him was liable to be convicted of rape.

10. Various measures were in place to afford the victims of sexual offences protection under procedural law, including the options of providing evidence to the police by video recording and of giving evidence in court through a closed circuit television link, and provision of assistance to victims by specialist task forces set up in the police force and Social Welfare Department. Furthermore, under the law of evidence, the corroboration rule had been abolished in June 2000 so that abusers could now be convicted on the evidence of the victims alone.

11. Thanking the Committee members for their views and suggestions, he said that the authorities would set up working groups to consider what further improvements could be made to the existing laws and administrative measures relating to sexual violence and victim support.

12. Ms. WONG (China: Hong Kong Special Administrative Region), responding to a question put by the Chairperson at the previous meeting, said that registered cases of child abuse had risen from 381 in 1997, including 146 cases of sexual abuse, to 500 cases in 2000, including 150 of sexual abuse. The causes determined included inadequate parenting, behavioural and psychological problems of children, personality and psychological problems of carers and parents, and poor parental relationships. The authorities were determined to tackle the problem at the root by preventive measures, including publicity and public education programmes and early intervention in at-risk families, and a range of support services including dedicated units in the police and social welfare services. The authorities would keep their legislative and administrative measures under constant review. A bill had been introduced to strengthen existing controls over child pornography and combat child-sex tourism. A working group was to be set up on victim support schemes covering inter alia victims of child abuse.

13. Notwithstanding the drop in the number of cases of child suicide and attempted suicide since 1996/97, the authorities were not complacent. The causes included unrealistic expectations on the part of parents, inadequate social support at times of crisis, inadequate problem-solving skills and inadequate emotion-management skills. Outlining the range of measures in place to deal with the problems, she said that the authorities would keep the statistics and programmes under constant review.

14. Mr. SADI said that, if he was correct in concluding that the determination of who benefited from the one-way and two-way permit schemes was effectively in the hands of mainland China, he would like to know what role Hong Kong played in that process, to what extent the criteria for determination were consistent with the Covenant and other related human rights, and how the schemes related to people in similar situations not in mainland China?

15. On domestic violence and child abuse, he observed that unreported cases might far exceed those reported. Further, would the delegation agree that housing conditions could be a contributory factor to domestic violence? Referring to item 26 of the written replies, which stated that "two persons aged between 7 and 15 were convicted of offences relating to prostitution", he expressed surprise that such young children could be convicted. He hoped the information was incorrect. Lastly, he took issue with the suggestion that the psychological disorders of children themselves were among the reasons for child abuse, since children were not responsible for, but suffered from, such disorders as a result of the conditions in which they were raised.

16. Mr. ALLCOCK (China: Hong Kong Special Administrative Region), replying to Mr. Sadi's questions about permits, confirmed that the Hong Kong authorities had no material influence on the criteria according to which one-way and two-way permits were issued. However the Chinese and Hong Kong authorities conferred on certain applications for one-way permits and certificates of entitlement in the interest of efficiency. He believed that the criteria were consistent with the Covenant and other human rights to the extent that they were fair and equitable within the constraints he had mentioned. He confirmed that the permit systems were designed for people from mainland China and did not concern people from other parts of the world.

17. Mr. WONG (China: Hong Kong Special Administrative Region) said that the concern expressed by Mr. Sadi over the minimum age of criminal responsibility in Hong Kong, currently seven years, had been raised by the legal profession and the community at large. However, if a child below the age of 14 was charged with a criminal offence, evidence had to be adduced that the child had known that what he or she was doing was wrong. The authorities were considering whether to raise the minimum age in the light of recommendations by the Law Reform Commission. He hoped to be able to report on further developments at the next hearing.

18. Ms. WONG (China: Hong Kong Special Administrative Region), also replying to Mr. Sadi, did not rule out the possibility of underreporting of cases of domestic violence and child abuse. The authorities were committed to raising public awareness of the problem and encouraging victims to come forward. She explained that psychological and behavioural problems in children cited as a cause of abuse referred to children who abused other children.

19. Ms. CHUNG (China: Hong Kong Special Administrative Region), responding to Mr. Sadi's question on housing, said that improvements in that area were helping to reduce the possibility of child abuse. Hong Kong had formulated a long-term housing strategy in 1997/1998. Since then, the number of inadequately accommodated households had been reduced by one third, despite immigration levels of 150 per day; much inadequate housing and many squatter areas had been cleared; the waiting period for public housing had been halved and

would be reduced to three years by 2003; and rents had been frozen at the 1998 level. Total expenditure on housing over the past five years had been US$ 28.63 billion and between 13 per cent and 18 per cent of total public spending went on housing.

20. There were of course still problems, a major one being competing demands. Following a review of priorities, families were no longer given the same preference as in the past and initiatives had been introduced that benefited single persons, the elderly and new immigrants. Lastly, there had been a shift away from a "bricks-and-mortar" policy of directly providing accommodation to one of providing loans to applicants.

21. Mr. TEXIER noted that, in its concluding observations of 1996, the Committee had referred to the problem of "cage homes" as a blight on the housing situation in Hong Kong and had recommended their total eradication. What was the situation now in that regard? He wondered if the State party would agree with NGO figures showing that there were about a million people living in approximately 280,000 inadequate dwellings and some 2,000 single people still living in "cage homes".

22. The CHAIRPERSON invited Committee members' comments on articles 11 to 15 of the Covenant.

23. Mr. WIMER said that there was a highly organized squatters' movement in Hong Kong, which exploited any empty space in high-rise buildings. Indeed, the existence of empty buildings in urban areas where space was at a premium gave an ideological boost to the movement. What was the delegation's assessment of the size and importance of the movement and what was the Government's attitude and policy towards it? Was it viewed as a social phenomenon and problem or as a question of juvenile delinquency?

24. Mr. ATANGANA requested details of the current situation with regard to the application of the "small house policy" to indigenous women, who at the time of writing of the initial report had not benefited from it (E/1990/5/Add.43, para. 411).

25. Mr. AHMED said that a number of NGOs had urged the Committee to underline the importance of court decisions in safeguarding fundamental rights and freedoms - including economic, social and cultural rights - in Hong Kong, given that there was no fully-elected legislature chosen by universal suffrage and a lack of effective checks and balances.

26. He drew attention to an article by a senior member of Human Rights Watch, published in the International Herald Tribune of 28-29 April 2000, which raised two questions relevant to the question of the rule of law in Hong Kong: how the authorities should deal with the Falun Gong meditation group and how they should respond to China's detention of Hong Kong-based academics. President Jiang Zemin of China was to visit Hong Kong on 8 May 2001 and it was expected that Falun Gong members would hold protest rallies. According to the article, the Chief Administrative Officer of Hong Kong had described Falun Gong in hostile terms and said protests would be unacceptable. However, Mr. Allcock, the Solicitor-General, had said "There is no pressure to use article 23 against Falun Gong"; the group was "legal in Hong Kong so long as they abide by Hong Kong's laws". Many NGOs were worried that legislation would be conjured up specifically for the occasion, making even peaceful rallies by Falun Gong

subversive activities. Freedom of expression was guaranteed under the Basic Law and he hoped that the rule of law would not be undermined by what happened, since that could tarnish Hong Kong's image.

27. The article also referred to two scholars, Mr. Xu Zerong and Mr. Li Shaomin, detained on the mainland in August 2000 and February 2001 respectively, without explanation. As disturbing as the arbitrary detentions was the fact that the Hong Kong authorities had apparently not bothered to make any inquiries as to why the academics had been arrested and why they were being held incommunicado.

28. The article raised relevant questions. If the authorities were powerless to prevent arbitrary arrest, for example, that would pose a serious challenge to the "one country, two systems" idea. Academic and business exchanges were vital if Hong Kong was to continue to prosper and to help drive China's development. With China about to join the World Trade Organization (WTO), Hong Kong's role was more crucial than ever as an example of how free markets, civil liberties and the rule of law could thrive together.

29. He hoped the delegation would be able to provide satisfactory answers to those questions: it was not simply a matter of the two individuals concerned or of Falun Gong itself, but of the image of Hong Kong as a peace-loving, democratic State that respected human rights, and the success of the "one country, two systems" experiment.

30. Mr. MALINVERNI, referring to the Government's reply to item 27 on the list of issues, said that Hong Kong had no official definition of poverty and did not recognize an official poverty line. The Government criticized NGOs' definitions of poverty but offered no alternative. NGO documents showed a worrying increase of nearly 30 per cent in the number of elderly poor between 1996 and 1999. Currently one in four elderly people was poor. What insurance coverage did the elderly have? What criteria were used in allocating preferential housing (report, paras. 375 ff) and providing a meals service (report, para. 304) to the elderly?

31. Mr. THAPALIA, referring to a number of NGO and media reports, said that, with a per capita GDP of US$ 24,540 per annum and 1.3 million people, or one sixth of the population, living in poverty, Hong Kong had the world's most inequitable income distribution. The most vulnerable groups were immigrants from mainland China and migrant workers from the Indian subcontinent. In addition, Hong Kong had no minimum wage, and in February 2001, it had been revealed that homeless people, or "street sleepers", had been hired at derisory wage-rates to clean public conveniences. The Chief Administrative Officer had been criticized for refusing to set a poverty line and his undertaking, given in October 2000, to spend 2.7 billion Hong Kong dollars over two years to address the widening gap between the rich and the poor had been considered short-sighted, since it did not tackle the root of the problem.

32. Against that background, he asked what categories of person were officially recognized as low-income groups, what income the most vulnerable of them might earn and what their daily calorie intake was. What institution was responsible for monitoring poverty? Lastly, he asked whether the children of migrant workers had access to universal compulsory primary education and what proportion of absentees they accounted for in the education system.

33. Mr. GRISSA said that Hong Kong had one of the world's highest life expectancies and a good health service. There was, however, a great deal of movement in and out of other areas in the Far East where AIDS was rapidly gaining ground. In the statistical annex to the report, the Government had given a figure of 1,542 HIV-infected persons, but a simple round figure of 500 with full-blown AIDS. How accurate were the statistics? He also wondered what the incidence of death from AIDS was and what treatment was given to AIDS sufferers: were they cared for by public health services or was it left to their families to look after them?

34. Mr. MARCHÁN ROMERO, referring to article 15 of the Covenant, noted that Hong Kong had established the Information Technology and Broadcasting Bureau in 1998 to formulate policy on telecommunications and promote the wider use of information technology (report, para. 618). However, it was clear from recent information supplied by Hong Kong's Census and Statistics Department that persons with disabilities were far less likely than the able-bodied to have access to the Internet, for example. As had been said at the Summit of the Americas held recently in Quebec, it was important to provide access to information technology at an equal rate for all. What was the Government doing to widen access to such technologies for the disabled, in particular, and also for women?

35. Mr. PILLAY, referring to article 12 of the Covenant, asked how the Government met the health needs of vulnerable and marginalized groups such as the poor, the elderly and those with disabilities. He understood that there were plans to introduce a health-care system based on earnings-related contributions. Would the Government contribute on behalf of those who had no paid employment, such as homemakers and the disabled?

36. It appeared that the mentally ill in Hong Kong were not getting the treatment they deserved. Not only were they treated, in some cases, with old medicines, which had a bad effect on their physical health, but also the prevailing culture tended to view the mentally ill as a burden and an embarrassment. Referring to the Committee's recommendations of 1996 in that regard, he asked what progress had been achieved since then.

37. Recalling the Government's admission that the core content of the Covenant was enforceable and must be taken into account, he wondered what status it gave the Committee's recommendations generally: were they taken seriously or regarded as mere statements of intent with no requirement for immediate implementation?

38. Mr. CEAUSU noted that, according to paragraphs 418 and 419 of the report, the authorities prioritized the prevention of AIDS and care for sufferers. For care to be provided, cases needed to be detected, yet footnote 3 to paragraph 418 gave only a broad estimate of the number of people infected. Why were no precise, reliable figures available? Were cases not reported because of doubts about confidentiality, for example? He requested more details concerning the policy guidelines mentioned in paragraph 422 of the report.

39. Paragraphs 461 and 462 of the report appeared to contain contradictions. In some cases where allegations of negligence were not borne out, the causes of death or injury were apparently "organizational failure" and "human error", including "carelessness" and "lack of knowledge", which would seem to amount in effect to negligence. He wondered why the very hospitals or doctors alleged to be at fault were given responsibility for carrying out the investigation in such

cases. Thus in one serious accident referred to in the report it had been unwise for the hospital concerned to be assigned the task of investigating it and reporting to the Department of Health, when what was needed in such cases was an independent, impartial investigation. The complaint investigation mechanism should involve judicial action, especially in the event of death. He would also like to know whether the legislation to safeguard the standards of traditional Chinese medicine, due to be enacted in 1999, had in fact been passed and come into effect.

40. Although, in his experience, most Chinese smoked, the report was silent about measures to combat tobacco and alcohol addiction, which posed a serious health hazard to young people. Were the authorities aware of that threat? And did they have any plans to discourage youth from adopting those habits? On the subject of environmental safety, he asked whether there was any mechanism for cooperation between the HKSAR and the Chinese Government in anti-pollution measures when a waterway's source was located on the mainland.

41. While the International Labour Organization had included statistics on Hong Kong in its latest report, there were none in UNICEF's State of the World's Children 2001 report. Had the authorities taken steps to ensure that HKSAR statistics appeared in all special United Nations studies? Such information would, of course, appear under the heading "China", but would reflect Hong Kong's special status through separate disaggregated statistics.

42. Mr. HUNT said that, while not wishing to encourage complacency on the part of the authorities, he thought that the housing situation had improved. However, the problem of "roof-dwellers", which was a human rights issue, still persisted. He asked the delegation to state the number of persons still living on the roofs of buildings and what broad policy the authorities had in mind. Also, since poverty was a multidimensional and multisectoral issue, it might be helpful if the authorities established a cross-sectional, interdepartmental unit to implement the measures referred to in the Chief Executive's policy statement.

43. With evidence that the number of mentally disabled people was on the increase, the Government's strategy for addressing the problem appeared to be reactive and to lack cohesion. He recommended a review of the relevant legislation and a thorough overhaul of the strategy so as to determine the number of people affected, where they lived and whether they had equitable access to medical care. Lastly, could the delegation specify what factors beyond the Government's control militated against the attainment of full literacy in the foreseeable future, as claimed in the written replies?

44. Mr. MALINVERNI said that, according to certain NGOs, the mentally disabled were administered old drugs that had certain side effects. The Government had announced the establishment of a new-drugs pilot programme for 2,500 patients. He asked what criterion was used in their selection and why the programme was being implemented only gradually. Complaints had been lodged with the Equal Opportunities Commission (EOC) regarding the right of the mentally disabled to challenge their internment in the courts. Were they fully informed of that right? He asked how the Government was tackling the increase in the transmission of HIV/AIDS through heterosexual intercourse and from mother to child, and whether there was an effective code of conduct to ensure that children suffering from AIDS were not excluded from ordinary schools.

45. Ms. BARAHONA-RIERA, referring to the Chairperson's earlier statement that the newly formed Women's Commission should not be merely decorative, said it should be an agent of genuine change with regard to discrimination of any kind. She asked what action was being taken to change the gender-discriminatory content of textbooks and ensure equal access for girls and boys to all levels of education. Genuine gender equality could be attained only through legislative and judicial action. For instance, what legal protection concerning alimony and housing was given to wives and families of men who took up employment abroad and set up house with other women? The Women's Commission and the education bodies should also make strenuous efforts to change cultural attitudes and enhance the image of women at all levels so as to combat sexual harassment in the workplace.

46. Ms. CHUNG (China: Hong Kong Special Administrative Region) said that the discrepancy between the Government's and NGOs' figures on households living in temporary, inadequate or non-self-contained accommodation and on rooftops had arisen because the NGOs had used a variety of sources and had rounded off the figures upwards. Her information was that there were 132,000 households, or 6.3 per cent of the total, in that situation - a great improvement over the 1999 figure of 10 per cent, if the continued wave of immigration to the HKSAR was taken into account.

47. The Government had embarked on a comprehensive squatter-clearance campaign, the most recent clearance had taken place in the middle of Kowloon, leaving approximately 100,000 squatters still on government land, in addition to the 120,000 on private agricultural land in the New Territories. Squatting resulted from the interplay of a variety of social problems, but squatters were encouraged to register for low-cost housing. Any one person claiming to be homeless was given accommodation, since it was the Government's policy that no person should be made homeless because of squatter clearance. Should land need to be cleared for development or owing to the threat of a landslide, those affected were immediately housed. Some 12,000 squatters had already benefited from that scheme.

48. Rooftop dwellings were illegal structures permitted by unscrupulous landlords, and those living in them were also encouraged to register for public accommodation. In the event of a fire hazard or other danger, the structures were cleared and the inhabitants rehoused. Registration forms were even issued by mail, and promotional material was available. The Government had committed itself, after its massive clearance in 2001, to clearing a further 700 such structures each year thereafter. According to a sample survey, there were an estimated 9,000 households living on rooftops.

49. Replying to a question from Mr. Malinverni, she said that housing for the elderly was tackled in a variety of ways: priority access to public housing, improved design to meet specific requirements and shorter waiting periods. Persons over 60 had been promised rental accommodation by the end of 2003 if they registered by 31 March 2001. The three-year waiting period for people living alone would be reduced to two years by 2005, as well as for unrelated elderly persons wishing to live together in hostels or self-contained accommodation, and families living with, or wishing to live close to, elderly relatives. In addition, there was not only a loan scheme for the elderly, but also a subsidized purchase scheme.

50. Ms. WONG (China: Hong Kong Special Administrative Region) said the authorities were greatly concerned about Hong Kong's needy population and heeded NGO recommendations. Self-reliance and self-betterment were treasured values in the society. The idea, therefore, was to create an environment conducive to fair competition, where advancement was achieved through the development of talents. It was important to adhere to market principles without any barrier to access to jobs, thus enabling people from all walks of life to aspire to better jobs and benefit from the fruits of economic growth. The authorities provided training for transition from a service-based to a knowledge-based economy. Economic and social policies responded to changing economic circumstances, and the needy were assisted with housing, education and medical attention. As Mr. Hunt had noted, the Government had injected HK$ 2.7 billion to fund a job-creation, skill-upgrading, and retraining package. While social security existed as a safety net, it was intended to help people regain their self-reliance and rejoin the mainstream.

51. There was no scientific method for drawing a poverty line, which was a controversial issue both locally and internationally, and involved subjective value judgements. Nor was its existence a prerequisite for public assistance to the needy. In 2001/02 a large proportion of total expenditure would go to education, health and welfare, including social security. Each programme had specific criteria for determining eligibility. Income was not necessarily the most effective indicator of living standards. In any event, Hong Kong would closely monitor the current arrangements to determine whether they still worked effectively and would heed the views of the Committee and the local community. While the authorities would consider Mr. Hunt's suggestion of a poverty commission, each bureau and department had responsibility for its programmes and its own advisory board and committees to ensure their efficacy.

52. Even developed countries had some degree of income disparity, which could not be solved through income redistribution. The focus was not on eliminating the wealth gap, but on creating an environment conducive to escape from poverty. Over the past decade there had been a substantial increase in the income of all groups, even the poorest, accompanied by considerable upward mobility.

53. As had been suggested, statistics on the mentally disabled would be closely monitored in order to match services to needs. With NGO assistance, the authorities were already addressing the important task of helping reintegrate former psychiatric patients into the community, providing them with the medical and rehabilitation assistance needed for their maximum physical, mental and social development. Additional funds had been invested for the procurement of new psychiatric drugs, the Mental Health Ordinance had been reviewed, and a territory-wide campaign had been launched in April 2001 in support of the relevant World Health Organization policies. Hospital staff apprised patients in writing of the pertinent provision of the Ordinance under which they had been admitted, and of their right to apply for discharge and to seek a review of their case by the Mental Health Review Tribunal.

54. Ms FUNG (China: Hong Kong Special Administrative Region), responding to the question on the number of HIV-infected persons or AIDS patients given in the report, said that the figures were believed to be fairly accurate since they had been produced by the Department of Health under a voluntary reporting scheme set up in the 1980s. The treatment of such patients included strategies for the provision of prevention and health promotion programmes, the

delivery of care to people living with HIV/AIDS, the maintenance of an efficient surveillance and control mechanism, and community involvement in HIV/AIDS prevention. Similarly, the Department of Health had set up an AIDS counselling service for voluntary testing and advice to patients. In 2000, over 1,200 people had used the free service, which was supplemented by an AIDS hotline that received about 5,000 calls per month. The Social Hygiene Service of the Department of Health provided voluntary HIV testing through a network of clinics, eight for males and eight for females. In the public sector, a clinical HIV/AIDS service was provided by the Department of Health and the hospital authority. In 1999, an integrated treatment centre had been set up in Kowloon Bay to enhance the clinical HIV programmes in operation. Currently, about half of all reported cases were under the care of the public service.

55. As to the attempts made to reduce the transmission of HIV infection from mothers to children, the Government would introduce a universal voluntary screening programme for all pregnant women later in 2001. The policy for integrating HIV-infected children into the school system was governed by the principles of non-segregation and non-discrimination. AIDS-related education was promoted through its inclusion in sex education programmes and other learning activities where emphasis was laid on the routes of transmission and the fostering of supportive attitudes.

56. The question of measures to deal with medical accidents and complaints, and the possible separation of investigation from prosecution in such cases, was being addressed by the HKSAR Government. In the report, mention was made of consultations on overall health-care reforms. A feature of those reforms was a proposal on how to deal with medical complaints and the separation of functions.

57. The legislation on Chinese medicine mentioned by Mr. Ceausu had been enacted in July 1999 in the form of the Chinese Medicine Ordinance. The instrument provided a regulatory framework for the practice of Chinese medicine and the use, marketing and manufacture of traditional Chinese remedies in Hong Kong. In addition, the Chinese Medicine Council had been established to devise and implement the regulatory controls established in the Ordinance.

58. Mr. ALLCOCK (China: Hong Kong Special Administrative Region) said that his Government completely endorsed the comments made by Mr. Ahmed regarding the importance of the rule of law and the fact that the courts played a pivotal role in deciding human rights issues in Hong Kong. The Basic Law stated that the power of final adjudication in Hong Kong was vested in the courts of the Special Administrative Region.

59. As to the recent disappearance of Hong Kong-based scholars, attempts had been made to ascertain their whereabouts on the mainland. Initial problems had been experienced in obtaining information on the residents concerned, since regional and city authorities had particular powers of arrest and detention. The Security Bureau had therefore negotiated with mainland authorities to establish an agreed system of notification in the case of detention by public security and customs authorities on the mainland. Since the system in place was not fully comprehensive, efforts would be made to consolidate it. Under the current system, once the Hong Kong authorities were aware that any HKSAR residents had been detained, assistance was granted to

their relatives in arranging visits. In cooperation with mainland prosecutors, work had been completed on the publication of the relevant laws on powers of detention and trial procedures on the mainland and in Hong Kong. As a result, relatives might challenge unlawful detention where appropriate.

60. Unfortunately, constraints still applied in that according to the relation to the "one country, two systems" principle neither the mainland nor Hong Kong was supposed to interfere in judicial processes involving persons detained on the other's territory. Thus, the overall policy of the Hong Kong authorities in relation to the detention and prosecution of suspects on the mainland was governed by the principles of non-interference and assistance to relatives.

61. Mr. LAM (China: Hong Kong Special Administrative Region), answering Mr. Marchán-Romero, said that community information technology centres had been set up for disadvantaged groups, notably housewives and other women. Efforts had also been undertaken to make government networks accessible to disabled persons, especially the visually impaired and blind.

62. As to the rights of indigenous women to build village houses, that practice was traditionally confined to males since, upon marriage, females normally moved out of their own villages and therefore no longer required their own housing. With tens of thousands of pending applications by men for land, the process of rapid development and population increases meant that such land was in short supply. Although gender equality was now high on the agenda of the Hong Kong authorities, the traditions governing the issue of village land were not easily overcome.

63. Responding to Mr. Texier, he said that since the previous report legislation had been passed requiring licensing of "cage homes". Many such homes had been made much safer, while 30 had in fact been closed and their inmates rehoused. Nevertheless, some people wished to stay in their homes for work reasons or because they had many friends in the area. They could not be moved by force so the Government was obliged to make the homes as habitable as possible. The matter was being kept under review.

64. As to Falun Gong, there was no question of infringement of the religious freedom, enshrined in article 141 of the Basic Law. As long as Falun Gong remained a legal body and acted within the law, its activities would continue to be respected. Certain members of the public did, however, consider that Falun Gong was merely exploiting Hong Kong's political freedoms to achieve its aims.

65. As to the rights of women whose husbands had set up second families on the mainland, bigamy was a crime under both the mainland and Hong Kong law. The question was more one of males relinquishing their financial responsibilities. That complex social problem was not covered by any natural or legal measures, and was an undesirable phenomenon resulting from the fact that men found it difficult to marry in Hong Kong or that women from the mainland were attracted by the greater wealth of males from Hong Kong. It was difficult to enforce any law in that regard, and the matter would require public education.

66. Regarding gender equality, attempts had been made to avoid a conventional image of "women at home" in school textbooks. There was, however, still room for improvement and gender equality must be a key consideration in the reform of the school curriculum currently being conducted. On the subject of access to schools, the Equal Opportunities Commission was currently taking legal action against the authorities for not granting access to schools at the same age for boys and for girls. The reason for that was not in fact gender discrimination but simply that boys suffered if they were offered access to schools at the same age as girls.

67. Concerning the environment, cross-border forums were being set up to coordinate environmental activities between the mainland and Hong Kong. Most of Hong Kong's water was supplied from the mainland, where efforts were made to keep natural resources as clean as possible with the assistance of loans from Hong Kong. Negotiations were also conducted on air pollution, which was a highly complex issue given the different levels of economic development in the two areas. Above all, a strong will existed for a joint approach to environmental issues.

68. Regarding literacy, the large influx of immigrants from the mainland meant that it was very difficult to apply any rules as to their levels of educational achievement. However, every effort was being made to ensure 100 per cent literacy for all such persons. In answer to Mr. Ceasu's question on tobacco control, the Hong Kong Government had called for all people to stop smoking and the numbers of smokers had fallen consistently. Problems did still exist, however, since young people, especially girls, saw smoking as a sign of maturity and style. Attempts were being made to tackle the problem through education and publicity, and legislation would be introduced to try to reduce the cost for society as a whole.

69. Mr. ALLCOCK (China: Hong Kong Special Administrative Region), expanding on the subject of women from Hong Kong whose husbands set up a second household, said that according to Hong Kong law women could initiate proceedings to ensure their personal maintenance and that of their children, and to protect their right of residence in the matrimonial home. A draft law had just been approved by the National People's Congress making both bigamy and cohabitation outside marriage illegal. On the subject of the allocation of school places, legal proceedings were under way against what were considered to be discriminatory practices. It was not, however, a question of allocating more places to boys than to girls but one of access based on ratios of boys to girls in particular catchment areas.

70. Mr. TEXIER noted a discrepancy in the figures provided regarding cage homes. According to Government statistics, in June 1998 101 such dwellings had existed, housing 2,300 people. Figures provided by social workers and NGOs, however, indicated that at least 10,000 people lived in cage homes. The answer provided, to the effect that the authorities had been forced to verify that conditions were acceptable in certain homes while others had been destroyed, had not been very satisfactory. The Committee had asked for the complete elimination of cage homes, which were incompatible with recognized standards. Had the content of the Committee's General Comments Nos. 4 and 7 been taken into account in the rehousing of squatters? In other words, had it been done in genuine consultation with affected persons and groups.

71. Mr. LAM (China: Hong Kong Special Administrative Region) said that some people continued to live in shared accommodation and that inadequate housing continued to exist since conditions were so cramped. Similarly, people continued to live in cage homes (bedspace apartments) despite the Government's efforts. New homes could not be built in the old urban areas where certain people wished to continue living despite the deplorable conditions. It was the Government's duty to ensure that residents were safe from fire and other hazards however unsatisfactory the conditions. The elderly could, if they so wished, be rehoused relatively quickly, within two to three years. The complete elimination of cage homes was the eventual aim, but individuals' freedom of choice must be respected above all else. As to the consultations on clearance operations, the process had been one of patient dialogue and it had become clear that most people wanted to remain as close to urban areas as possible. Forced rehousing was currently very rare.

72. Mr. PILLAY said that no response had been provided on the question of the delegation's feelings towards the Committee's recommendations. Did Hong Kong think that all or only some of those recommendations should be implemented?

73. Mr. LAM (China: Hong Kong Special Administrative Region) said that the three meetings with the Committee had been very positive and had provided food for thought. The Committee's recommendations had been taken very seriously and the Government of the HKSAR had made an explicit commitment to the Covenant. In accordance with its obligations, it undertook "to take steps ... to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant". The Committee's recommendations were an important part of the gradual realization of such rights. Though it was a prosperous society, Hong Kong was faced by a large number of social and economic constraints, but the gradual process in question was nevertheless under way on many fronts. Hong Kong was a self-made community which had moved forward despite its economic and social hardships, and through the strict adherence to the principle of the rule of law, the creation of a level playing field for economic policies, and very humane social policies which took account of the needs of disadvantaged sectors. No other country was able to provide subsidized housing for half its population while retaining such a low rate of taxation. All its citizens had free access to health care at a cost of less than US$ 10 per day. Investment in education had increased by 43 per cent in the past three years and efforts would continue to try to bring everyone up to the same level of development. Its mature and self-critical approach was an integral part of its social and political system where corruption and other forms of abuse were minimized.

74. The CHAIRPERSON thanked the delegation for the assurances provided on the status of the Covenant and the Committee's recommendations.

The meeting rose at 1 p.m.